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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/799,174

03/12/2004

Diana L. Lane

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EXAMINER

CROSLAND, DONNIE L

ART UNIT

PAPER NUMBER

2612

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/05/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/799,174	Applicant(s) LANE ET AL.	
	Examiner DONNIE L. CROSLAND	Art Unit 2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-44 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 22-44 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>5-20-05; 1-5-07</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Information Disclosure Statement

The US publication 2005/0256872A1 has a file date later than the application file date and is therefor not a proper prior art document.

Drawings

The drawings are objected to because in figures 3 and 4 the shaded illustration of blocks 1, 6 must be shown in a manner like the blocks 2-4, note 37 CFR 1.84(m). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

Claims 26, 34, and 42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 26, line 2, the phrase "the fail-safe" has no antecedent basis.

In claim 34, line 5, the phrase "the data format" has no antecedent basis.

In claim 42, last paragraph, the language "a previously supplied decryption" is indefinite and lacks clear basis since there is no mentioned of an earlier supplied decryption key.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 32 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Basile et al, cited by applicants.

Basile shows the method and apparatus for forming an ID card for identifying and locating a missing subject and includes storing on an electronic storage medium 18 or 20 unique identifying indicia including at least one photo and retaining the storage medium by the family 24 which is separate from the subject which is wearing the tag 20 and separate from the centralized storage facility 16, and utilizing the storage medium 18 or 20 to deliver the indicia to the authority should the subject go missing, see figure 1, col. 3, lines 53-67, col. 4, lines 1-34.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 22-31, 33-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Basile et al, cited by applicants in view of Rothschild et al.

Basile shows the apparatus for use by an appropriate authority to assist in locating and identifying a missing subject comprising an electronic storage medium 18 or 20 containing unique identifying indicia of the subject.

Basile fails to suggest a software program on the portable storage medium 18 or 20.

Rothschild shows the method and apparatus for providing personal identifying indicia on a portable electronic storage medium 14 and provides for software 17 which functions independent of the interfacing means 12, see figure 3, paragraphs 0017-0020.

It would have been obvious to one having ordinary skill in the art to provide a software program on the portable storage medium 18 or 20 of the personal identification system of Basile because the use and advantages of a software program provided on the portable storage medium in a personal identification system is clearly suggested by Rothschild et al.

Any advantages seen are those naturally expected due to the software program incorporated into the portable electronic storage medium.

Claim 23, see paragraph 0020 of Rothschild.

Claim 24, see paragraphs 0007-0009 of Rothschild.

Claim 25, see paragraph 0029.

Claim 26, the recording mediums in paragraph 0029 provides for fail safe erasing.

Claims 27, 34, 38, 41, 42, and 44, the recited encrypted and decrypted limitations are suggested in col. 3, lines 49-52, col. 5, lines 1-10 of Basile as well as passwords in paragraphs 0010, 0018 of Rothschild.

The artisan recognizes the use and advantages of encryption as evidence in the prior art.

It would have been obvious to one having ordinary skill in the art to encrypt and decrypt the stored information, for example images that have been protected from unauthorized use in col. 0006 of Rothschild.

Also see access to data of the device may be allowed upon entry of an appropriate password, paragraph 0010 of Rothschild.

With respect to claim 28, see family 24 of Basile et al.

With respect to claim 29, the artisan recognizes that the key is associated with the authorization code given to the manufacturer 16 by the family 24 of Basile et al.

Claims 30 and 33, see col. 5, lines 11-21 of Basile.

With respect to claim 34, the third party includes manufacturer 16 of Basile.

With respect to claim 35, note camera in paragraph 0029 of Rothschild.

With respect to claim 37, memory purge is conventional and would not involve patentable invention.

With respect to claims 39 and 40, see communications network in col. 3, lines 31-40 of Basile. E-mail communication would not involve patentable invention.

With respect to claim 43, video and audio are suggested in paragraph 0020 of Rothschild.

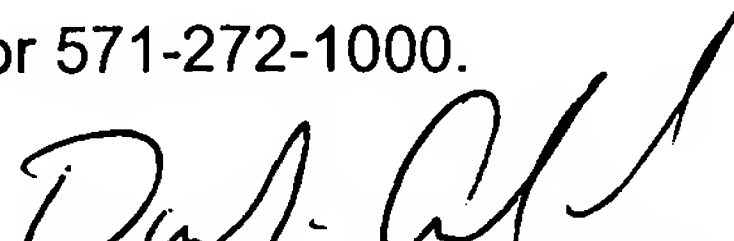
With respect to claim 44, see fingerprint in col. 4, lines 59-60 of Basile.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DONNIE L. CROSLAND whose telephone number is 571-272-2980. The examiner can normally be reached on Mon-Thur: 9:30a-6:00p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MICHAEL HORABIK can be reached on 571-272-3068. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


DONNIE L. CROSLAND
Primary Examiner
Art Unit 2612

DLC ✓
1-30-07